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GENERAL STATUTES OF NORTH CAROLINA
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*** ANNOTATIONS CURRENT THROUGH APRIL 28, 2006 ***

CHAPTER 115C. **ELEMENTARY AND SECONDARY EDUCATION**
SUBCHAPTER 02 . ADMINISTRATIVE ORGANIZATION OF STATE AND LOCAL **EDUCATION** AGENCIES
ARTICLE 2. STATE BOARD OF **EDUCATION**

GO TO CODE ARCHIVE DIRECTORY FOR THIS JURISDICTION

N.C. Gen. Stat. § 115C-12 (2006)

STATUS: CONSULT SLIP LAWS CITED BELOW FOR RECENT CHANGES TO THIS DOCUMENT LEXSEE
2006 N.C. ALS 75 — See section 1.
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§ 115C-12. Powers and duties of the Board generally

The general supervision and administration of the free public school system shall be vested in the State Board of **Education**. The State Board of **Education** shall establish policy for the system of free public schools, subject to laws enacted by the General Assembly. The powers and duties of the State Board of **Education** are defined as follows:

(1) Financial Powers. — The financial powers of the Board are set forth in Article 30 of this Chapter.

(1a) To Submit a Budget Request to the Director of the Budget. — The Board shall submit a budget request to the Director of the Budget in accordance with *G.S. 143-6*. In addition to the information requested by the Director of the Budget, the Board shall provide an analysis relating each of its requests for expansion funds to anticipated improvements in student performance.

(2) Repealed by Session Laws 1985 (Regular Session, 1986), c. 975, s. 24.

(3), (4) Repealed by Session Laws 1987 (Regular Session, 1988), c. 1025, s. 1.

(5) Apportionment of Funds. — The Board shall have authority to apportion and equalize over the State all State school funds and all federal funds granted to the State for assistance to educational programs administered within or sponsored by the public school system of the State.

(6) Power to Demand Refund for Inaccurate Apportionment Due to False Attendance Records. — When it shall be found by the State Board of **Education** that inaccurate attendance records have been filed with the State Board of **Education** which resulted in an excess allotment of funds for teacher salaries in any school unit in any school year, the school unit concerned may be required to refund to the State Board the amount allotted to said unit in excess of the amount an accurate attendance record would have justified.

(7) Power to Alter the Boundaries of City School Administrative Units and to Approve Agreements for the Consolidation and Merger of School Administrative Units Located in the Same County. — The Board shall have authority, in its discretion, to alter the boundaries of city school administrative units and to approve agreements submitted by county and city boards of **education** requesting the merger of two or more contiguous city school administrative units and the merger of city school administrative units with county school administrative units and the consolidation of all the public schools in the respective units under the administration of one board of **education**: Provided, that such merger of units and reorganization of school units shall not have the effect of abolishing any special taxes that may have been voted in any such units.

(8) Power to Make Provisions for Sick Leave and for Substitute Teachers. — The Board shall provide for sick leave with pay for all public school employees in accordance with the provisions of this Chapter and shall promulgate rules and regulations providing for necessary substitutes on account of sick leave and other teacher absences.

The minimum pay for a substitute teacher who holds a teaching certificate shall be sixty-five percent (65%) of the daily pay rate of an entry-level teacher with an "A" certificate. The minimum pay for a substitute teacher who does not hold a teaching certificate shall be fifty percent (50%) of the daily pay rate of an entry-level teacher with an "A" certificate. The pay for noncertified substitutes shall not exceed the pay of certified substitutes.

Local boards may use State funds allocated for substitute teachers to hire full-time substitute teachers.

If a teacher assistant acts as a substitute teacher, the salary of the teacher assistant for the day shall be the same as the daily salary of an entry-level teacher with an "A" certificate.

(9) Miscellaneous Powers and Duties. — All the powers and duties exercised by the State Board of **Education** shall be in conformity with the Constitution and subject to such laws as may be enacted from time to time by the General Assembly. Among such duties are:

- a. To certify and regulate the grade and salary of teachers and other school employees.
- b. To adopt and supply textbooks.
- c. To adopt rules requiring all local boards of **education** to implement the Basic **Education** Program on an incremental basis within funds appropriated for that purpose by the General Assembly and by units of local government. Beginning with the 1991-92 school year, the rules shall require each local school administrative unit to implement fully the standard course of study in every school in the State in accordance with the Basic **Education** Program so that every student in the State shall have equal access to the curriculum as provided in the Basic **Education** Program and the standard course of study.

The Board shall establish benchmarks by which to measure the progress that each local board of **education** has made in implementing the Basic **Education** Program.

c1. To issue an annual "report card" for the State and for each local school administrative unit, assessing each unit's efforts to improve student performance based on the growth in performance of the students in each school and taking into account progress over the previous years' level of performance and the State's performance in comparison with other states. This assessment shall take into account factors that have been shown to affect student performance and that the State Board considers relevant to assess the State's efforts to improve student performance.

c2. Repealed by Session Laws 1995 (Regular Session, 1996), c. 716, s. 1.

c3. To develop a system of school building improvement reports for each school building. The purpose of school building improvement reports is to measure improvement in the growth in student performance at each school building from year to year, not to compare school buildings. The Board shall include in the building reports any factors shown to affect student performance that the Board considers relevant to assess a school's efforts to improve student performance. Local school administrative units shall produce and make public their school building improvement reports by March 15, 1997, for the 1995-96 school year, by October 15, 1997, for the 1996-97 school year, and annually thereafter. Each report shall be based on building-level data for the prior school year.

c4. To develop guidelines, procedures, and rules to establish, implement, and enforce the School-Based Management and Accountability Program under Article 8B of this Chapter in order to improve student performance, increase local flexibility and control, and promote economy and efficiency.

d. To formulate rules and regulations for the enforcement of the compulsory attendance law.

e. To manage and operate a system of insurance for public school property, as provided in Article 38 of this Chapter.

In making substantial policy changes in administration, curriculum, or programs the Board should conduct hearings throughout the regions of the State, whenever feasible, in order that the public may be heard regarding these matters.

(9a), (9b) Repealed by Session Laws 2005-458, s. 1, effective October 2, 2005.

(9c) Power to develop content standards and exit standards. — The Board shall develop a comprehensive plan to revise content standards and the standard course of study in the core academic areas of reading, writing, mathematics, science, history, geography, and civics. The Board shall involve and survey a representative sample of parents, teachers, and the public to help determine academic content standard priorities and usefulness of the content standards. A full review of available and relevant academic content standards that are rigorous, specific, sequenced, clear, focused, and measurable, whenever possible, shall be a part of the process of the development of content standards. The revised content standards developed in the core academic areas shall (i) reflect high expectations for students and an in-depth mastery of the content; (ii) be clearly grounded in the content of each academic area; (iii) be defined grade-by-grade and course-by-course; (iv) be understandable to parents and teachers; (v) be developed in full recognition of the time available to teach the core academic areas at each grade level; and (vi) be measurable, whenever possible, in a reliable, valid, and efficient manner for accountability purposes.

High school course content standards shall include the knowledge and skills necessary to pursue further postsecondary **education** or to attain employment in the 21st century economy. The high school course content standards also shall be aligned with the minimum undergraduate course requirements for admission to the constituent institutions of The University of North Carolina. The Board may develop exit standards that will be required for high school graduation.

The Board also shall develop and implement an ongoing process to align State programs and support materials with the revised academic content standards for each core academic area on a regular basis. Alignment shall include revising textbook criteria, support materials, State tests, teacher and school administrator preparation, and ongoing professional development programs to be compatible with content standards. The Board shall develop and make available to teachers and parents support materials, including teacher and parent guides, for academic content standards. The State Board of **Education** shall work in collaboration with the Board of Governors of The University of North Carolina to ensure that teacher and school administrator degree programs, ongoing professional development, and other university activity in the State's public schools align with the State Board's priorities.

(10) Power to Provide for Programs or Projects in the Cultural and Fine Arts Areas. — The Board is authorized and empowered, in its discretion, to make provisions for special programs or projects of a cultural and fine arts nature for the enrichment and strengthening of educational opportunities for the children of the State.

For this purpose, the Board may use funds received from gifts or grants and, with the approval of the Director of the Budget, may use State funds which the Board may find available in any budget administered by the Board.

(11) Power to Conduct **Education** Research. — The Board is authorized to sponsor or conduct **education** research and special school projects considered important by the Board for improving the public schools of the State. Such research or projects may be conducted during the summer months and involve one or more local school units as the Board may determine. The Board may use any available funds for such purposes.

(12) Duty to Provide for Sports Medicine and Emergency Paramedical Program. — The State Board of **Education** is authorized and directed to develop a comprehensive plan to train and make available to the public schools personnel who shall have major responsibility for exercising preventive measures against sports related deaths and injuries and for providing sports medicine and emergency paramedical services for injuries that occur in school related activities. The plan shall include, but is not limited to, the training, assignment of responsibilities, and appropriate additional reimbursement for individuals participating in the program.

The State Board of **Education** is authorized and directed to develop an implementation schedule and a program funding formula that will enable each high school to have a qualified sports medicine and emergency paramedical program by July 1, 1984.

The State Board of **Education** is authorized and directed to establish minimum educational standards necessary to enable individuals serving as sports medicine and emergency paramedical staff to provide such services, including first aid and emergency life saving skills, to students participating in school activities.

(13) Power to Purchase Liability Insurance. — The Board is authorized to purchase insurance to protect board members from liability incurred in the exercise of their duty as members of the Board.

(14) Duty to Provide Personnel Information to Local Boards. — Upon request, the State Board of **Education** and the Department of Public Instruction shall furnish to any county or city board of **education** any and all available personnel

information relating to certification, evaluation and qualification including, but not limited to, semester hours or quarterly hours completed, graduate work, grades, scores, etc., that are on that date in the files of the State Board of **Education** or Department of Public Instruction.

(15) Duty to Develop Noncertified Personnel Position Evaluation Descriptions. — The Board is authorized and directed to develop position evaluation descriptions covering those positions in local school administrative units for which certification by the State Board of **Education** is not normally a prerequisite. The position evaluation descriptions required in this subdivision are to be used by local boards of **education** as the basis for assignment of noncertified employees to an appropriate pay grade in accordance with salary grades and ranges adopted by the State Board of **Education**. No appropriations are required by this subdivision.

(16) Power with Regard to Salary Schedules. — The Board shall provide for sick leave with pay for all public school employees in accordance with the provisions of this Chapter and shall promulgate rules and regulations providing for necessary substitutes on account of sick leave and other teacher absences.

a. Support personnel refers to all public school employees who are not required by statute or regulation to be certified in order to be employed. The State Board of **Education** is authorized and empowered to adopt all necessary rules for full implementation of all schedules to the extent that State funds are made available for support personnel.

b. Salary schedules for the following public school support personnel shall be adopted by the State Board of **Education**: school finance officer, office support personnel, teacher assistants, maintenance supervisors, custodial personnel, and transportation personnel. The Board shall classify these support positions in terms of uniform pay grades included in the salary schedule of the State Personnel Commission.

By the end of the third payroll period of the 1995–96 fiscal year, local boards of **education** shall place State-allotted office support personnel, teacher assistants, and custodial personnel on the salary schedule adopted by the State Board of **Education** so that the average salary paid is the State-allotted amount for the category. In placing employees on the salary schedule, the local board shall consider the **education**, training, and experience of each employee, including experience in other local school administrative units. It is the intent of the General Assembly that a local school administrative unit not fail to employ an employee who was employed for the prior school year in order to implement the provisions of this sub-subdivision. A local board of **education** is in compliance with this sub-subdivision if the average salary paid is at least ninety-five percent (95%) of the State-allotted amount for the category at the end of the third payroll period of the 1995–96 fiscal year, and at least ninety-eight percent (98%) of the State-allotted amount for the category at the end of the third payroll period of each subsequent fiscal year. The Department of Public Instruction shall provide technical assistance to local school administrative units regarding the implementation of this sub-subdivision.

c. Salary schedules for other support personnel, including but not limited to maintenance and school food service personnel, shall be adopted by the State Board of **Education**. The Board shall classify these support positions in terms of uniform pay grades included in the salary schedule of the State Personnel Commission. These schedules shall apply if the local board of **education** does not adopt a salary schedule of its own for personnel paid from other than State appropriations.

(17) Power to provide for school transportation programs. The State Board of **Education** is authorized and empowered to promulgate such policies, rules, and regulations as it may deem necessary and desirable for the operation of a public school transportation system by each local administrative unit in the State. Such policies, rules, and regulations shall include, but are not limited to, fund allocations and fiscal support to assure the effective and efficient use of funds appropriated by the General Assembly in support of the school transportation system. Nothing herein shall be construed to affect in any way or to lessen in any way the full and complete authority of local boards of **education** to assign pupils to schools in accordance with *G.S. 115C-366*.

(18) Duty to Develop and Implement a Uniform **Education** Reporting System, Which Shall Include Standards and Procedures for Collecting Fiscal and Personnel Information.

a. The State Board of **Education** shall adopt standards and procedures for local school administrative units to provide timely, accurate, and complete fiscal and personnel information, including payroll information, on all school personnel. All local school administrative units shall comply with these standards and procedures by the beginning of the 1987–88 school year.

b. The State Board of **Education** shall develop and implement a Uniform **Education** Reporting System that shall

include requirements for collecting, processing, and reporting fiscal, personnel, and student data, by means of electronic transfer of data files from local computers to the State Computer Center through the State Communications Network. All local school administrative units shall comply with the requirements of the Uniform **Education** Reporting System by the beginning of the 1989-90 school year.

c. The State Board of **Education** shall comply with the provisions of *G.S. 116-11(10a)* to plan and implement an exchange of information between the public schools and the institutions of higher **education** in the State. The State Board of **Education** shall require local boards of **education** to provide to the parents of children at a school all information except for confidential information received about that school from institutions of higher **education** pursuant to *G.S. 116-11(10a)* and to make that information available to the general public.

d. The State Board of **Education** shall modify the Uniform **Education** Reporting System to provide clear, accurate, and standard information on the use of funds at the unit and school level. The plan shall provide information that will enable the General Assembly to determine State, local, and federal expenditures for personnel at the unit and school level. The plan also shall allow the tracking of expenditures for textbooks, educational supplies and equipment, capital outlay, at-risk students, and other purposes. The revised Uniform **Education** Reporting System shall be implemented beginning with the 1999-2000 school year.

(19) Duty to Identify Required Reports and to Eliminate Unnecessary Reports and Paperwork. — Prior to the beginning of each school year, the State Board of **Education** shall identify all reports that are required at the State level for the school year.

The State Board of **Education** shall adopt policies to ensure that local school administrative units are not required by the State Board of **Education**, the State Superintendent, or the Department of Public Instruction staff to (i) provide information that is already available on the student information management system or housed within the Department of Public Instruction; (ii) provide the same written information more than once during a school year unless the information has changed during the ensuing period; or (iii) complete forms, for children with disabilities, that are not necessary to ensure compliance with the federal Individuals with Disabilities **Education** Act (IDEA). Notwithstanding the foregoing, the State Board may require information available on its student information management system or require the same information twice if the State Board can demonstrate a compelling need and can demonstrate there is not a more expeditious manner of getting the information.

(20) Duty to Report Appointment of Caretaker Administrators and Boards. — Pursuant to *G.S. 120-30.9G* the State Board of **Education** shall submit to the Attorney General of the United States within 30 days any rules, policies, procedures, or actions taken pursuant to *G.S. 115C-64.4* which could result in the appointment of a caretaker administrator or board to perform any of the powers and duties of a local board of **education** where that school administrative unit is covered by the Voting Rights Act of 1965.

(21) Duty to Monitor Acts of School Violence. — The State Board of **Education** shall monitor and compile an annual report on acts of violence in the public schools. The State Board shall adopt standard definitions for acts of school violence and shall require local boards of **education** to report them to the State Board in a standard format adopted by the State Board.

(22) Duty to Monitor the Decisions of Teachers to Leave the Teaching Profession. — The State Board of **Education** shall monitor and compile an annual report on the decisions of teachers to leave the teaching profession. The State Board shall adopt standard procedures for each local board of **education** to use in requesting the information from teachers who are not continuing to work as teachers in the local school administrative unit and shall require each local board of **education** to report the information to the State Board in a standard format adopted by the State Board.

(23) Power to Adopt Eligibility Rules for Interscholastic Athletic Competition. — The State Board of **Education** may adopt rules governing interscholastic athletic activities conducted by local boards of **education**, including eligibility for student participation. The State Board of **Education** may authorize a designated organization to apply and enforce the Board's rules governing participation in interscholastic athletic activities at the high school level.

(24) Duty to Develop Standards for Alternative Learning Programs, Provide Technical Assistance on Implementation of Programs, and Evaluate Programs. — The State Board of **Education** shall adopt standards for assigning students to alternative learning programs. These standards shall include (i) a description of the programs and services that are recommended to be provided in alternative learning programs and (ii) a process for ensuring that an assignment is

appropriate for the student and that the student's parents are involved in the decision. The State Board also shall adopt policies that define what constitutes an alternative school and an alternative learning program.

The State Board of **Education** shall also adopt standards to require that local school administrative units shall use (i) the teachers allocated for students assigned to alternative learning programs pursuant to the regular teacher allotment and (ii) the teachers allocated for students assigned to alternative learning programs only to serve the needs of these students.

The State Board of **Education** shall provide technical support to local school administrative units to assist them in developing and implementing plans and proposals for alternative learning programs.

The State Board shall evaluate the effectiveness of alternative learning programs and, in its discretion, of any other programs funded from the Alternative Schools/At-Risk Student allotment. Local school administrative units shall report to the State Board of **Education** on how funds in the Alternative Schools/At-Risk Student allotment are spent and shall otherwise cooperate with the State Board of **Education** in evaluating the alternative learning programs. As part of its evaluation of the effectiveness of these programs, the State Board shall, through the application of the accountability system developed under *G.S. 115C-105.35*, measure the educational performance and growth of students placed in alternative schools and alternative programs. If appropriate, the Board may modify this system to adapt to the specific characteristics of these schools. Also as part of its evaluation, the State Board shall evaluate its standards adopted under this subdivision and make any necessary changes to those standards based on strategies that have been proven successful in improving student achievement and shall report to the Joint Legislative **Education** Oversight Committee by April 15, 2006 to determine if any changes are necessary to improve the implementation of successful alternative learning programs and alternative schools.

(25) Duty to Report to Joint Legislative **Education** Oversight Committee. — Upon the request of the Joint Legislative **Education** Oversight Committee, the State Board shall examine and evaluate issues, programs, policies, and fiscal information, and shall make reports to that Committee. Furthermore, beginning October 15, 1997, and annually thereafter, the State Board shall submit reports to that Committee regarding the continued implementation of Chapter 716 of the 1995 Session Laws, 1996 Regular Session. Each report shall include information regarding the composition and activity of assistance teams, schools that received incentive awards, schools identified as low-performing, school improvement plans found to significantly improve student performance, personnel actions taken in low-performing schools, and recommendations for additional legislation to improve student performance and increase local flexibility.

(26) Duty to Monitor and Make Recommendations Regarding Professional Development Programs. — The State Board of **Education**, in collaboration with the Board of Governors of The University of North Carolina, shall identify and make recommendations regarding meaningful professional development programs for professional public school employees. The programs shall be aligned with State **education** goals and directed toward improving student academic achievement. The State Board shall annually evaluate and, after consultation with the Board of Governors, make recommendations regarding professional development programs based upon reports submitted by the Board of Governors under *G.S. 116-11(12a)*.

(27) Reporting Dropout Rates, Suspensions, Expulsions, and Alternative Placements. — The State Board shall report annually to the Joint Legislative **Education** Oversight Committee and the Commission on Improving the Academic Achievement of Minority and At-Risk Students on the numbers of students who have dropped out of school, been suspended, been expelled, or been placed in an alternative program. The data shall be reported in a disaggregated manner and be readily available to the public. The State Board shall not include students that have been expelled from school when calculating the dropout rate. The Board shall maintain a separate record of the number of students who are expelled from school.

(27a) Reducing School Dropout Rates. — The State Board of **Education** shall develop a statewide plan to improve the State's tracking of dropout data so that accurate and useful comparisons can be made over time. The plan shall include, at a minimum, how dropouts are counted and the methodology for calculating the dropout rate, the ability to track students movements among schools and districts, and the ability to provide information on who drops out and why.

(28) Duty to Develop Rules for Issuance of Driving Eligibility Certificates. — The State Board of **Education** shall adopt the following rules to assist schools in their administration of procedures necessary to implement *G.S. 20-11* and *G.S. 20-13.2*:

- a. To define what is equivalent to a high school diploma for the purposes of *G.S. 20-11* and *G.S. 20-13.2*. These

rules shall apply to all educational programs offered in the State by public schools, charter schools, nonpublic schools, or community colleges.

b. To establish the procedures a person who is or was enrolled in a public school or in a charter school must follow and the requirements that person shall meet to obtain a driving eligibility certificate.

c. To require the person who is required under *G.S. 20-11(n)* to sign the driving eligibility certificate to provide the certificate if he or she determines that one of the following requirements is met:

1. The person seeking the certificate is eligible for the certificate under *G.S. 20-11(n)(1)* and is not subject to *G.S. 20-11(n1)*.

2. The person seeking the certificate is eligible for the certificate under *G.S. 20-11(n)(1)* and *G.S. 20-11(n1)*.

These rules shall apply to public schools and charter schools.

d. To provide for an appeal to an appropriate **education** authority by a person who is denied a driving eligibility certificate. These rules shall apply to public schools and charter schools.

e. To define exemplary student behavior and to define what constitutes the successful completion of a drug or alcohol treatment counseling program. These rules shall apply to public schools and charter schools.

The State Board also shall develop policies as to when it is appropriate to notify the Division of Motor Vehicles that a person who is or was enrolled in a public school or in a charter school no longer meets the requirements for a driving eligibility certificate.

The State Board shall develop a form for parents, guardians, or emancipated juveniles, as appropriate, to provide their written, irrevocable consent for a school to disclose to the Division of Motor Vehicles that the student no longer meets the conditions for a driving eligibility certificate under *G.S. 20-11(n)(1)* or *G.S. 20-11(n1)*, if applicable, in the event that this disclosure is necessary to comply with *G.S. 20-11* or *G.S. 20-13.2*. Other than identifying under which statutory subsection the student is no longer eligible, no other details or information concerning the student's school record shall be released pursuant to this consent. This form shall be used for students enrolled in public schools or charter schools.

The State Board of **Education** may use funds appropriated for drivers **education** to cover the costs of driving eligibility certificates.

(29) To issue special high school diplomas to veterans of World War II. — The State Board of **Education** shall issue special high school diplomas to all honorably discharged veterans of World War II who request special diplomas and have not previously received high school diplomas.

(30) Duty to Adopt Model Guidelines and Policies for the Establishment of Local Task Forces on Closing the Academic Achievement Gap. — The State Board shall adopt a Model for local school administrative units to use as a guideline to establish local task forces on closing the academic achievement gap at the discretion of the local board. The purpose of each task force is to advise and work with its local board of **education** and administration on closing the gap in academic achievement and on developing a collaborative plan for achieving that goal. The State Board shall consider the recommendations of the Commission on Improving the Academic Achievement of Minority and At-Risk Students to the 2001 Session of the General Assembly in establishing its guidelines.

(30a) Duty to Assist Schools in Meeting Adequate Yearly Progress. — The State Board of **Education** shall:

a. Identify which schools are meeting adequate yearly progress with subgroups as specified in the No Child Left Behind Act of 2001;

b. Study the instructional, administrative, and fiscal practices and policies employed by the schools selected by the State Board of **Education** that are meeting adequate yearly progress specified in the No Child Left Behind Act of 2001;

c. Create assistance models for each subgroup based on the practices and policies used in schools that are meeting adequate yearly progress. The schools of **education** at the constituent institutions of The University of North Carolina, in collaboration with the University of North Carolina Center for School Leadership Development, shall assist the State Board of **Education** in developing these models; and

d. Offer technical assistance based on these assistance models to local school administrative units not meeting

adequate yearly progress, giving priority to those local school administrative units with high concentrations of schools that are not meeting adequate yearly progress. The State Board of **Education** shall determine the number of local school administrative units that can be served effectively in the first two years. This technical assistance shall include peer assistance and professional development by teachers, support personnel, and administrators in schools with subgroups that are meeting adequate yearly progress.

(31) To Adopt Guidelines for Individual Diabetes Care Plans. — The State Board shall adopt guidelines for the development and implementation of individual diabetes care plans. The State Board shall consult with the North Carolina Diabetes Advisory Council established by the Department of Health and Human Services in the development of these guidelines. The State Board also shall consult with local school administrative unit employees who have been designated as responsible for coordinating their individual unit's efforts to comply with federal regulations adopted under Section 504 of the Rehabilitation Act of 1973, as amended, 29 U.S.C. § 794. In its development of these guidelines, the State Board shall refer to the guidelines recommended by the American Diabetes Association for the management of children with diabetes in the school and day care setting and shall consider recent resolutions by the United States Department of **Education's** Office of Civil Rights of investigations into complaints alleging discrimination against students with diabetes.

The guidelines adopted by the State Board shall include:

a. Procedures for the development of an individual diabetes care plan at the written request of the student's parent or guardian, and involving the parent or guardian, the student's health care provider, the student's classroom teacher, the student if appropriate, the school nurse if available, and other appropriate school personnel.

b. Procedures for regular review of an individual care plan.

c. Information to be included in a diabetes care plan, including the responsibilities and appropriate staff development for teachers and other school personnel, an emergency care plan, the identification of allowable actions to be taken, the extent to which the student is able to participate in the student's diabetes care and management, and other information necessary for teachers and other school personnel in order to offer appropriate assistance and support to the student. The State Board shall ensure that the information and allowable actions included in a diabetes care plan as required in this subdivision meet or exceed the American Diabetes Association's recommendations for the management of children with diabetes in the school and day care setting.

d. Information and staff development to be made available to teachers and other school personnel in order to appropriately support and assist students with diabetes.

The State Board shall ensure that these guidelines are updated as necessary and shall ensure that the guidelines and any subsequent changes are published and disseminated to local school administrative units.

(32) Duty to encourage early entry of motivated students into four-year college programs. — The State Board of **Education**, in cooperation with the **Education** Cabinet, shall work with local school administrative units, the constituent institutions of The University of North Carolina, local community colleges, and private colleges and universities to (i) encourage early entry of motivated students into four-year college programs and to (ii) ensure that there are opportunities at four-year institutions for academically talented high school students to get an early start on college coursework, either at nearby institutions or through distance learning.

The State Board of **Education** shall also adopt policies directing school guidance counselors to make ninth grade students aware of the potential to complete the high school courses required for college entry in a three-year period.

HISTORY: 1955, c. 1372, art. 2, s. 2; art. 17, s. 6; art. 18, s. 2; 1957, c. 541, s. 11; 1959, c. 1294; 1961, c. 969; 1963, c. 448, ss. 24, 27; c. 688, ss. 1, 2; c. 1223, s. 1; 1965, c. 584, s. 20.1; c. 1185, s. 2; 1967, c. 643, s. 1; 1969, c. 517, s. 1; 1971, c. 704, s. 4; c. 745; 1973, c. 236; c. 476, s. 138; c. 675; 1975, c. 686, s. 1; c. 699, s. 2; c. 975; 1979, c. 300, s. 1; c. 935; c. 986; 1981, c. 423, s. 1; 1983, c. 630, s. 1; 1983 (Reg. Sess., 1984), c. 1034, s. 16; 1985, c. 479, s. 55(c)(3); c. 757, s. 145(a); 1985 (Reg. Sess., 1986), c. 975, s. 24; 1987, c. 414, s. 1; 1987 (Reg. Sess., 1988), c. 1025, ss. 1, 3; 1989, c. 585, s. 1; c. 752, s. 65(c); c. 778, s. 6; 1991, c. 529, s. 3; c. 689, s. 196(b); 1991 (Reg. Sess., 1992), c. 880, s. 3; c. 900, s. 75.1(e); 1993, c. 321, ss. 125, 133(a), 139(b); 1993 (Reg. Sess., 1994), c. 769, ss. 19(a), 19.9; 1995, c. 60, s. 1; c. 324, s. 17.15(a); c. 450, s. 4; c. 509, s. 59; 1995 (Reg. Sess., 1996), c. 716, s. 1; 1996, 2nd Ex. Sess., c. 18, ss. 18.4, 18.28(a); 1997-18, s. 15(a), (c)-(e); 1997-221, s. 12(a); 1997-239, s. 1; 1997-443, s. 8.27(a), (e); 1997-443, s. 8.29(o), (u); 1997-

507, s. 3; 1998-153, s. 16(b); 1998-212, ss. 9.16(a), 9.23; 1999-237, s. 8.25(d); 1999-243, s. 5; 1999-397, s. 3; 2001-86, s. 1; 2001-151, s. 1; 2001-424, ss. 28.30(e), (f), 31.4(a); 2002-103, s. 1; 2002-126, s. 7.15; 2002-159, s. 63; 2002-178, s. 1(a); 2003-251, s. 1; 2003-419, s. 1; 2005-155, s. 1; 2005-276, ss. 7.18, 9.34(a); 2005-446, s. 1; 2005-458, ss. 1, 2.

NOTES:

CROSS REFERENCES.—As to sick leave for public school employees, see *G.S. 115C-336*. As to the purpose of The Excellent Schools Act, Session Laws 1997-221, see the Editor's Note under *G.S. 115C-105.38A*.

STUDY ON ADMISSIONS PLACEMENT, AND ADVANCED PLACEMENT.—Session Laws 2001-312, ss. 1(a) to (c), provide for The Board of Governors of The University of North Carolina, in cooperation with the State Board of **Education** and the State Board of Community Colleges, to study the measures used by the constituent institutions to make admissions, placement, and advanced placement decisions regarding incoming freshmen and to assess the various uses made of those measures and the validity of those measures with regard to a student's academic performance and as predictors of a student's future academic performance, as well as whether other alternative measures may be equally valid or more accurate as indicators of a student's academic performance. In the study, particular consideration is to be given to whether or not to eliminate, continue, or change the emphasis placed on the Scholastic Aptitude Test (SAT) and ACT Assessment for North Carolina students as a mandatory university admissions measure. The study is also to review incorporating the State's testing program into admissions, placement, and advanced placement decisions. Based on its findings, the Board of Governors of The University of North Carolina, in cooperation with the State Board of **Education** and the State Board of Community Colleges, is authorized to develop recommendations to improve the measures used to assess a student's academic performance, to adopt alternative measures, or to use various combinations of both to determine more accurately a student's academic knowledge and performance. The Board of Governors may make an interim report to the Joint Legislative **Education** Oversight Committee no later than March 1, 2002, and shall submit a final report by December 1, 2003. It is recommended that the study continue beyond the final report date.

PROFESSIONAL DEVELOPMENT FOR PUBLIC SCHOOL PROFESSIONALS.—Session Laws 2001-424, ss. 31.4(c) to (e), as amended by Session Laws 2002-126, s. 7.17(h), provides: "(c) The Joint Legislative **Education** Oversight Committee shall hire an independent consultant to study and make recommendations regarding professional development for public school professionals in North Carolina. The consultant shall study:

"(1) The professional development programs administered under the UNC Center for School Leadership Development with regard to their mission, governance structure, efficiency, and objectively measurable effectiveness in increasing student achievement.

"(2) The feasibility and merits of consolidating and reducing the number of professional development programs.

"(3) The possibility of regionalizing professional development programs and using a cooperative arrangement between higher educational institutions and community colleges in a region to achieve the goal.

"(4) The professional development support offered by the Department of Public Instruction.

"(5) The use of professional development funds allocated to local school administrative units and individual schools.

"(6) National research regarding effective methods for delivering professional development that is shown to improve student achievement.

"The consultant shall report these findings to the Joint Legislative **Education** Oversight Committee and also shall make recommendations regarding how existing State funds should be utilized to provide effective and efficient professional development for public school professionals.

"(d) The Joint Legislative **Education** Oversight Committee shall review the consultant's findings and recommendations and shall submit to the 2003 General Assembly recommendations to streamline, reorganize, and improve the delivery of professional development for public school professionals. The recommendations may address revisions to program governance and mission, reallocation of funds, methods of program delivery, and methods to institute ongoing program evaluation.

"(e) The Joint Legislative **Education** Oversight Committee shall review the reports that are required to be made to the Committee. The purpose of the review is to determine which reports must include information that is research-based, proven in practice, and designed for data-driven research. The Committee may make recommendations for changes in these reports based upon the Committee's findings."

Session Laws 2001-424, s. 1.2, provides: "This act shall be known as 'The Current Operations and Capital Improvements Appropriations Act of 2001'."

Session Laws 2001-424, s. 36.3, provides: "Except for statutory changes or other provisions that clearly indicate an

intention to have effects beyond the 2001–2003 fiscal biennium, the textual provisions of this act apply only to funds appropriated for, and activities occurring during, the 2001–2003 fiscal biennium."

Session Laws 2001–424, s. 36.5, is a severability clause.

HEALTHFUL SCHOOL FOOD CHOICES/PILOT PROGRAM.—Session Laws 2004–124, ss. 7.17(a) and (b), provide: "The State Board of **Education**, with the advice and assistance of The North Carolina School Food Service Association and the Academy of Family Physicians, shall develop and implement a pilot program to support the efforts of local school administrative units to provide only healthful, nutritious food choices to students. The State Board of **Education** shall select up to eight local school administrative units to participate in the pilot program and shall set standards for the food choices offered to students. In selecting the eight pilot units, the State Board shall give priority to those units that volunteer to be a pilot. The pilots shall be distributed geographically throughout the State.

"For the 2004–2005 school year, pilot units shall implement the program in **elementary** schools.

"If, at the end of the 2004–2005 school year, the State Board of **Education** finds that a pilot unit experienced a decrease in food service revenues because students opted not to purchase the healthful, nutritious food choices offered by the school food service, the State Board shall reimburse the unit for that decrease in revenues."

UNC-NCCCS JOINT INITIATIVE FOR TEACHER EDUCATION AND RECRUITMENT.—Session Laws 2005–276, s. 9.3, provides for the development and implementation of a Joint Initiative for Teacher **Education** and Recruitment. See note at *G.S. 115C-295*.

SCHOOL-BASED CHILD AND FAMILY TEAM INITIATIVE.—Session Laws 2005–276, s. 6.24, provides for the development and implementation of a School-Based Child and Family Team Initiative. See notes under *G.S. 115C-105.20*.

STUDENTS WITH LIMITED ENGLISH PROFICIENCY.—Session Laws 2005–276, ss. 7.9(a) and (b), provide: "(a) The State Board of **Education** shall develop guidelines for identifying and providing services to students with limited proficiency in the English language.

"The State Board shall allocate these funds to local school administrative units and to charter schools under a formula that takes into account the average percentage of students in the units or the charters over the past three years who have limited English proficiency. The State Board shall allocate funds to a unit or a charter school only if (i) average daily membership of the unit or the charter school includes at least 20 students with limited English proficiency or (ii) students with limited English proficiency comprise at least two and one-half percent (2.5%) of the average daily membership of the unit or charter school. For the portion of the funds that is allocated on the basis of the number of identified students, the maximum number of identified students for whom a unit or charter school receives funds shall not exceed ten and six-tenths percent (10.6%) of its average daily membership.

"Local school administrative units shall use funds allocated to them to pay for classroom teachers, teacher assistants, tutors, textbooks, classroom materials/instructional supplies/equipment, transportation costs, and staff development of teachers for students with limited English proficiency.

"A county in which a local school administrative unit receives funds under this section shall use the funds to supplement local current expense funds and shall not supplant local current expense funds.

"(b) The Department of Public Instruction shall prepare a current head count of the number of students classified with limited English proficiency by December 1 of each year.

"Students in the head count shall be assessed at least once every three years to determine their level of English proficiency. A student who scores 'superior' on the standard English language proficiency assessment instrument used in this State shall not be included in the head count of students with limited English proficiency."

For similar provisions, see Session Laws 2003–284, s. 7.15.

PLAN AND FUNDING FOR A VIRTUAL HIGH SCHOOL.—Session Laws 2005–276, s. 7.41(a)–(e), provides: "(a) The State Board of **Education**, the Board of Governors of The University of North Carolina, the Independent Colleges and Universities, and the State Board of Community Colleges shall develop E-learning standards and plans for infrastructures that provide virtual learning opportunities accessible to students and other citizens through all North Carolina schools, universities, and community colleges. In developing the plan for the public schools, the State Board of **Education** shall focus initially on high schools while also researching and developing, where appropriate, E-learning for middle schools, junior high schools, and **elementary** schools. E-learning programs shall support both teachers and students.

"(b) As used in this section, 'E-learning' is electronic learning that includes a wide set of applications and processes, such as Web-based learning, computer-based learning, virtual classrooms, and digital collaboration. It includes the delivery of content via Internet, intranet/extranet (LAN/WAN), audiotape, videotape, satellite broadcast, interactive television, and CD-ROM.

"(c) It is the intent of the General Assembly to give public schools the highest priority in funding for and development of E-learning. Funding for E-learning should be a new appropriation and not come exclusively from existing funds.

"(d) The State Board of **Education** shall use funds appropriated for a virtual high school to establish and implement a pilot virtual high school during the 2005–2006 school year and the 2006–2007 school year.

"The State Board of **Education** shall include in the pilot program instruction on personal financial literacy. This instruction shall be designed to equip students with the knowledge and skills they need, before they become self-supporting, to make critical decisions regarding their personal finances. The components of instruction shall include, at a minimum, consumer financial **education**, personal finance, and personal credit.

"(e) If the pilot program is successful, it is the intent of the General Assembly to provide funding to implement a virtual high school on a statewide basis for the 2006–2007 fiscal year."

SMALL SPECIALTY HIGH SCHOOLS PILOT PROGRAM.—Session Laws 2005–276, ss. 7.52(a) and (b), provide:

"(a) Funds are appropriated in this act for a pilot program to create 11 small specialty high schools within existing schools. The purpose of the program is to improve graduation rates and to achieve higher student performance as measured by standard tests and postgraduate gainful employment or admission into an institution of higher **education**. The State Board of **Education** shall work closely with the **Education** Cabinet and the New Schools Project in administering the program.

"(b) The State Board of **Education** shall conduct an evaluation of this program. The evaluation shall include measures as identified in *G.S. 115C-238.55*. It shall also include: (i) an accounting of how funds and personnel resources were utilized and their impact on student achievement, retention, and employability; and (ii) recommendations for improvement of the program. The State Board of **Education** shall report the results of this evaluation to the Office of State Budget and Management, the Joint Legislative **Education** Oversight Committee, and the Fiscal Research Division by November 15, 2006."

EDITOR'S NOTE.—*G.S. 115C-64.4*, referred to in subdivision (20), has been repealed.

The section above was amended by Session Laws 1999–237, s. 8.25(d), Session Laws 1999–243, s. 5, and Session Laws 1999–397, s. 3, in the coded bill drafting format provided by *G.S. 120-20.1*. The amendment to subdivision (24) by Session Laws 1999–397, s. 3, included paragraphs in a different order. Subdivision (24) has been set out in the form above at the direction of the Revisor of Statutes.

Subdivision (28) was so designated at the direction of the Revisor of Statutes, the designation in Session Laws 1997–507, s. 3., having been subdivision (27).

Session Laws 1985, c. 479, which rewrote paragraph (9)c of this section, provided in ss. 55(c)(8) and (c)(9):

"(8) Nothing in this subsection creates any rights except to the extent that funds are appropriated by the State and the units of local government to implement the provisions of this subsection and the Basic **Education** Program.

"(9) This subsection shall apply to all school years beginning with the 1985–86 school year."

Session Laws 1997–221, s. 32, provides: "This act shall not be construed to obligate the General Assembly to appropriate any funds to implement the provisions of this act. Nothing in Sections 16 through 25 or Sections 28 through 30 of this act shall be construed to create any rights or causes of action."

Session Laws 1997–507, s. 6, effective September 17, 1997, provides that the State Board of **Education** shall initiate and coordinate meetings in order to develop coordinated rules, policies, and guidelines needed to implement the act.

Session Laws 1999–243, s. 10, provides that the State Board of **Education** shall initiate and coordinate meetings with the Division of Nonpublic **Education** in the Office of the Governor, with representatives of nonpublic schools, and with the State Board of Community Colleges in order to develop coordinated rules, policies, and guidelines needed to implement this act.

Session Laws 1999–243, s. 11, provides, in part, that the act does not apply to any person who held a valid North Carolina limited learner's permit issued before December 1, 1997, who held a valid North Carolina learner's permit issued before December 1, 1997, or who was a provisional licensee and held a valid North Carolina drivers license issued before December 1, 1997. The act applies only to conduct committed on or after July 1, 2000, by a person who is expelled, suspended, or placed in an alternative educational setting as a result of that conduct.

Session Laws 2002–103, s. 4, provides, in part, that the guidelines under Section 1 of the act shall be adopted no later than January 15, 2003, and shall be implemented under Section 2 of the act beginning with the 2003–2004 school year.

Session Laws 2002–126, s. 1.2, provides: "This act shall be known as 'The Current Operations, Capitol Improvements, and Finance Act of 2002'."

Session Laws 2002–126, s. 31.6, is a severability clause.

Session Laws 2003–419, s. 2, provides: "The State Board of **Education** and the Department of Public Instruction shall report to the Joint Legislative **Education** Oversight Committee by June 15, 2004, and December 15, 2005, on the implementation of Section 1 of this act. The report shall include:

"(1) The number and locations of schools meeting adequate yearly progress with the subgroups specified in the No Child Left Behind Act of 2001;

"(2) The assistance models developed for each subgroup;

"(3) Technical assistance provided to a local school administrative unit or a school; and

"(4) The need for additional resources to implement this act on a statewide basis."

Session Laws 2004–124, s. 1.2, provides: "This act shall be known as 'The Current Operations and Capital Improvements Appropriations Act of 2004'."

Session Laws 2004–124, s. 33.3, provides: "Except for statutory changes or other provisions that clearly indicate an intention to have effects beyond the 2004–2005 fiscal year, the textual provisions of this act apply only to funds appropriated for, and activities occurring during, the 2004–2005 fiscal year."

Session Laws 2004–124, s. 33.5, contains a severability clause.

Session Laws 2005–198, s. 4, which expires July 1, 2011, provides: "The State Board of **Education** and the State Board of Community Colleges shall submit annually to the Joint Legislative **Education** Oversight Committee a report on the community college program of study for lateral entry teachers established under this act. The initial report is due no later than April 1, 2006. The final report, due no later than April 1, 2011, must include recommendations as to whether this program should continue and, if so, must include the reasons for its continuation and any recommended legislative changes needed to enhance the program."

Session Laws 2005–271, s. 1, provides: "The State Board of **Education** shall identify research-based methods to reduce the dropout rate and the number of suspended students, especially in high-poverty schools with diverse student populations. As part of its study, the State Board shall review the research for best practices, effective policies, and model programs in areas such as (i) academic rigor in the curriculum, (ii) early identification of at-risk students, (iii) effective supplemental services for at-risk students, (iv) school size, (v) school climate, and (vi) adolescent literacy programs, as they relate to a reduction in the dropout rate and the number of suspended students.

"The State Board shall report its findings to the Joint Legislative **Education** Oversight Committee by January 2006."

Session Laws 2005–276, s. 1.2, provides: "This act shall be known as the 'Current Operations and Capital Improvements Appropriations Act of 2005'."

Session Laws 2005–276, s. 46.3, provides: "Except for statutory changes or other provisions that clearly indicate an intention to have effects beyond the 2005–2007 fiscal biennium, the textual provisions of this act apply only to funds appropriated for, and activities occurring during, the 2005–2007 fiscal biennium."

Session Laws 2005–276, s. 46.5 is a severability clause.

Session Laws 2005–276, ss. 7.61(a) and (b), provide: "(a) Funds appropriated for the At-Risk/Alternative Schools allotment and the Improving Student Accountability allotment shall be used consistent with the policies and procedures adopted by the State Board of **Education**. Priority for use of the funds shall be to (i) provide instructional positions or instructional support positions and/or professional development; (ii) provide intensive in-school and/or after-school remediation; and (iii) purchase diagnostic software and progress monitoring tools.

"(b) To remain eligible for funds appropriated for the At-Risk/Alternative Schools allotment and the Improving Student Accountability allotment, local school administrative units must submit a report to the State Board of **Education** by October 31 of each year detailing the expenditure of the funds and the impact of these funds on student achievement. The State Board of **Education** shall report this information annually by October 31 to the Office of State Budget and Management, the Joint Legislative **Education** Oversight Committee, and the Fiscal Research Division."

Session Laws 2005–445, s. 6, provides: "The State Board of **Education** shall review and revise the policies and practices related to students receiving credit for high school courses to ensure that all students, especially the highly mobile children of members of the armed forces, receive credit in the North Carolina public schools for comparable courses taken out-of-State. The State Board shall report the results of this review and any actions taken as a result of the study to modify its policies and practices to the Joint Legislative **Education** Oversight Committee prior to December 15, 2005."

Session Laws 2005–446, s. 4, provides: "Before implementing success centers or any other alternative learning program or alternative school in New Hanover County, the New Hanover Board of **Education** shall comply with *G.S. 115C-105.47A* established in Section 2 of this act. The State Board of **Education** shall submit to the Joint Legislative **Education**

Oversight Committee a copy of the proposal submitted by the New Hanover Board of **Education** and a copy of any recommendations made by the State Board."

Session Laws 2005-446, s. 5, provides: "Nothing in this act requires the North Carolina General Assembly to appropriate funds for the implementation of alternative learning programs or alternative schools."

Session Laws 2005-457, s. 2, provides: "The State Board of **Education** may use 'Eat Smart: North Carolina's Recommended Standards for All Foods Available in School' and the 'United States Dietary Guidelines' as references for establishing the nutrition standards under Section 1 of this act. In addition to the **elementary** school pilots established by Section 7.17 of S.L. 2004-124, the nutrition standards will also be piloted prior to statewide implementation in a minimum of eight middle schools and eight high schools at a time to be determined by the State Board of **Education**. The pilots shall be conducted in a manner that will hold the child nutrition program of a participating local school administrative unit financially harmless for its participation in the pilot project. It shall be the responsibility of the Child Nutrition Services Section of the Department of Public Instruction to oversee the pilot project, collect data from the pilots, interpret the data, and develop written guidance based on the outcomes of the pilots. The Child Nutrition Services Section of the Department of Public Instruction shall modify the nutrition standards as needed based on several criteria, including, but not limited to, the results of the pilot projects, current science, best practices in the food and beverage industry, and the availability and affordability of new foods and beverages. The Child Nutrition Services Section of the Department of Public Instruction shall monitor the progress of each local school administrative unit toward achieving the nutrition standards and shall provide technical assistance and training as needed to assist local school administrative units in implementing the nutrition standards. The Child Nutrition Services Section of the Department of Public Instruction shall report annually on the progress of each local school administrative unit to the State Board of **Education** and to the Joint Legislative **Education** Oversight Committee."

EFFECT OF AMENDMENTS.—Session Laws 2005-155, s. 1, effective July 5, 2005, deleted the last two paragraphs of subdivision (9)c., relating to a State accreditation program.

Session Laws 2005-276, ss. 7.18 and 9.34(a), effective July 1, 2005, rewrote subdivision (26); and added the last paragraph to subdivision (28).

Session Laws 2005-446, s. 1, effective September 29, 2005, and applicable to any new alternative learning program or alternative school to be implemented beginning with the 2006-2007 school year, in subdivision (24), substituted "Standards" for "Policies and Guidelines" and "standards" for "guidelines" throughout, inserted "and proposals" preceding "for alternative learning programs" in the third paragraph, and added the last sentence in the fourth paragraph.

Session Laws 2005-458, ss. 1 and 2, effective October 2, 2005, repealed subdivision (9a), which read: "To certify and regulate the grade and salary of teachers and other school employees."; repealed subdivision (9b), which read: "To adopt and supply textbooks."; and added subdivision (9c).

LEGAL PERIODICALS.—For note on *Leandro v. State*, 346 N.C. 336, 488 S.E.2d 249 (1997), see 76 N.C.L. Rev. 1481 (1998).

CASE NOTES

EDITOR'S NOTE.—Some of the cases below were decided under corresponding provisions of former Chapter 115.

CONSTITUTIONALITY.—No question arises under the Constitution of the United States with reference to the validity of delegation of authority to the *State Board of Education*. *Guthrie v. Taylor*, 279 N.C. 703, 185 S.E.2d 193 (1971), cert. denied, 406 U.S. 920, 92 S. Ct. 1774, 32 L. Ed. 2d 119 (1972).

DELEGATION OF POWER.—The principle forbidding delegation of legislative powers without the establishment of appropriate standards applies to the powers conferred upon the Board by statute; it does not apply to the powers conferred upon the *Board by the Constitution*. *Guthrie v. Taylor*, 279 N.C. 703, 185 S.E.2d 193 (1971), cert. denied, 406 U.S. 920, 92 S. Ct. 1774, 32 L. Ed. 2d 119 (1972).

DERIVATION OF BOARD POWERS.—The State Board of **Education** derives powers both from the Constitution and from acts of the *General Assembly*. *Guthrie v. Taylor*, 279 N.C. 703, 185 S.E.2d 193 (1971), cert. denied, 406 U.S. 920, 92 S. Ct. 1774, 32 L. Ed. 2d 119 (1972).

APPLIED in *Floyd v. Lumberton City Bd. of Educ.*, 71 N.C. App. 670, 324 S.E.2d 18 (1984).

CITED in *Guthrie v. North Carolina State Ports Auth.*, 56 N.C. App. 68, 286 S.E.2d 823 (1982); *N.C. Motor Coach Ass'n v. N.C. State Bd. of Educ.*, — F.3d — (4th Cir. July 1, 2004); *Ripellino v. N.C. Sch. Bds. Ass'n*, — N.C. App.—, 627 S.E.2d 225 (2006).

OPINIONS OF THE ATTORNEY GENERAL

SALARY AND HOURS OF CERTIFIED EMPLOYEES. — *N.C. Const., Art. IX, § 5* and *G.S. 115C-272(a), 115C-284(c), 115C-296, 115C-315(d)* and subsection (9) of this section give the State Board of **Education** the authority to establish salary schedules for all certified employees and to establish the amount of work required to earn those salaries. See opinion of Attorney General to Mr. James O. Barber, Controller, State Board of **Education**, 55 N.C.A.G. 1 (1985).

HOURS OF NONCERTIFIED EMPLOYEES OF LOCAL BOARD.—The State Board of **Education** has the power to prescribe the number of hours which noncertified employees of a local board of **education** must work in order to receive the salary provided by the State and set forth in the State Board's Salary Schedule. See opinion of Attorney General to Mr. James O. Barber, Controller, State Board of **Education**, 55 N.C.A.G. 1 (1985).

EDUCATIONAL PROGRAMS OPERATED BY PUBLIC SCHOOLS FOR THREE-AND FOUR-YEAR-OLD CHILDREN are not subject to licensure and regulation by the Child Day Care Commission. See opinion of Attorney General to Mr. Harry E. Wilson, Legal Specialist, North Carolina Department of Public Instruction, 60 N.C.A.G. 36 (1990).

EDUCATIONAL PROGRAMS FOR THREE-AND FOUR-YEAR-OLD CHILDREN HOUSED IN PUBLIC SCHOOL BUILDINGS BUT OPERATED BY PRIVATE PROVIDERS are subject to licensure and regulations by the Child Day Care Commission. See opinion of Attorney General to Mr. Harry E. Wilson, Legal Specialist, North Carolina Department of Public Instruction, 60 N.C.A.G. 36 (1990).

STATE IS NOT PROHIBITED FROM PURCHASING DAY CARE SERVICES FROM DAY CARE PROGRAMS OPERATED BY PUBLIC SCHOOLS, even though those programs are not licensed by the Child Day Care Commission. See opinion of Attorney General to Mr. Harry E. Wilson, Legal Specialist, North Carolina Department of Public Instruction, 60 N.C.A.G. 36 (1990).